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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,816	04/24/2006	Jean-Claude Hubert	ARN1PAU03US	9025

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Law Offices of Daniel L. Dawes
Dawes Patent Law Group
5200 Warner Blvd, Ste. 106
Huntington Beach, CA 92649

EXAMINER

RUSH, KAREEN KAY

ART UNIT	PAPER NUMBER
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3781

NOTIFICATION DATE	DELIVERY MODE
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10/01/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ddawes@dawespatents.com
mdawes@dawespatents.com
hdawes@dawespatents.com

Office Action Summary	Application No. 10/566,816	Applicant(s) HUBERT, JEAN-CLAUDE	
	Examiner KAREEN RUSH	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6 and 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/30/2006, 01/26/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1, 2, 4, 6 and 7 have been considered but are moot in view of the new ground(s) of rejection.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "bulges protrude beyond the peripheral wall" (claim 2) and "a produced part" (claim 6) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fore (6666348) in view of Tobias (20030196926).

Fore teaches a container for containing foodstuff (Fig. 1). The container comprises a bottom (Fig. 2) a peripheral wall (Fig. 1 at 11) integral with the bottom and extending upwardly from the bottom and defining a mouth opening (Fig. 3 at 24). A closing foil (Fig. 1 at 12) arranged onto the mouth opening. A plurality of vertical flutes (in Fig. 3 about 17, the recesses in between member 17) defined within the peripheral wall. The peripheral wall defining a mouth opening comprises a radial support edge (Fig. 3 at 24). The Fore reference DIFFERS in that it does not specifically include three support elements arranged on the bottom in the form of a bulge, as claimed. Attention, however, is directed to Tobias, which discloses a stackable container that makes use of support bulges (Fig. 1 at 38, about 34 and about 28). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Fore by employing the use of bulges, in view of the teachings of

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Tobias, in order to comply with the teaching of Fore which teaches the container is stackable (Fore in the abstract) and in order to add support to the bottom of the container making it stronger during stacking.

Regarding claim 2, the reference as applied to claim 1 teaches the container. The bulges protrude beyond the peripheral wall (this is disclosed in Tobias Fig. 1 at 38 in as much as is shown by applicant).

Regarding claim 4, the reference as applied to claim 1 teaches the container. The at least three support elements are evenly distributed over the bottom (Tobias, Fig. 1 at 38, about 34 and about 28).

Regarding claim 6, the reference as applied to claim 1 teaches the container. The support element is arranged inside a produced part of the peripheral wall (Tobias, Fig. 1 at 38, about 34 and about 28).

Regarding claim 7, the reference as applied to claim 1 teaches the container. The bottom and the peripheral wall integral with the bottom are connected via a rounded off corner (in the below annotated Fig. 7, the container used in Fig. 7 is the same container used in Fig. 1 with a different lid) smooth portion.

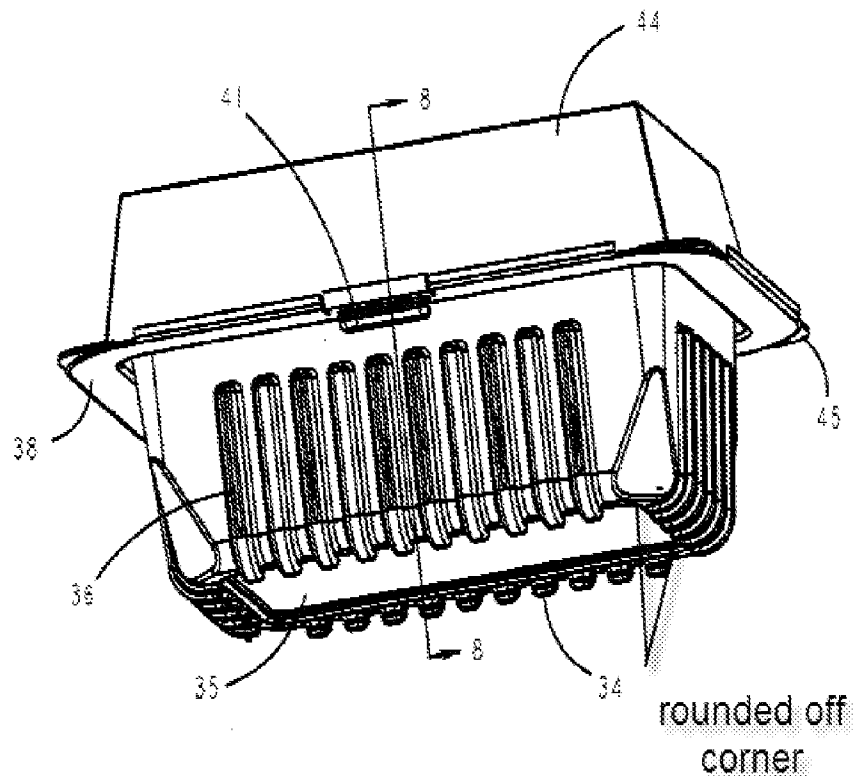


FIG. 7

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Hayes reference discloses stackable containers having bulges on the bottom of the containers. The Nordland reference discloses a container having a bulge on the bottom of the container. The Conti reference discloses stackable containers having bulges on the bottom of the containers. The Fox reference discloses

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stackable containers having bulges on the bottom of the containers and peel away membranes at the opening of the containers. The McManus reference discloses a container having bulges on the peripheral wall of the container and the side of the container. The Nemeth reference discloses stackable containers having bulges on the side of the containers. The Cox reference discloses stackable containers having bulges on the bottom of the containers. The Diamond reference discloses stackable containers having bulges on the bottom of the containers. The Walker reference discloses stackable containers having bulges on the bottom of the containers. The Massey reference discloses a container having a peel away closure.

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAREEN RUSH whose telephone number is (571)270-5611. The examiner can normally be reached on Monday-Friday (8:00 am - 5:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony D. Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anthony Stashick/
Supervisory Patent Examiner, Art
Unit 3781

K.R.
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